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THE CORTES OF THE SPANISH KINGDOMS IN THE LATER MIDDLE AGES

THE purpose of the present article is to examine and compare the composition, functions, and procedure of the Cortes of the different kingdoms of Spain from the thirteenth to the sixteenth centuries—in other words, during the period when they were at the height of their power. The thorny question of origins forms a topic by itself and can be only touched on incidentally here; and it has not seemed worth while to carry the investigation beyond the accession of Ferdinand and Isabella, save in a few special cases, since the later history of these institutions is comparatively well known. The Castilian Cortes have been treated more fully than the equally interesting and much more advanced assemblies of the eastern kingdoms, partly because they were destined, after the union of the crowns, to take precedence over the others, and partly because the material for their history is at present much the most fully available.¹

¹ For those who are familiar with the absence of references and bibliographical apparatus characteristic of Spanish historians, no apology will be needed for the length of this note on the sources and authorities upon this topic. Much original material has been made available during the past half-century by the efforts of the Real Academia de la Historia, and more is to be expected in the near future. In 1855 this learned body published a *Catálogo . . . de las Cortes de los Antiguos Reinos de España*, giving dates, places, and brief descriptions of the assemblies which, in the estimation of the scholars who edited it, could fairly be called Cortes. Though the accuracy of this *Catálogo* has been called in question again and again by subsequent writers, it formed an indispensable groundwork for later investigation. Between 1861 and 1903 the Academia published in five volumes the text of the proceedings of the Cortes of Leon and Castile from the beginning to 1559, with an excellent introduction in two volumes by Don Manuel Colmeiro; this introduction is by far the most valuable authority on the history of the Castilian Cortes. Meantime the Congreso de los Diputados undertook to publish the proceedings of the Cortes of Castile from 1563 to 1713, and has already reached the year 1619 in thirty-two volumes, while the Academia has recently turned its attention to a new series of *Cortes de los Antiguos Reinos de Aragón y de Valencia y Principado de Cataluña*, in which thirteen volumes of the proceedings of the Cortes of Catalonia from 1064 to 1423 have already appeared. The proceedings of the Cortes of Aragon and of Valencia, of the General Cortes of the three eastern kingdoms, and of the Cortes of Navarre are still unpublished; but there are printed collections of the *fueros*, laws, and ordinances of each realm, such as *Fueros y Observancias del Reyno de Aragón*, published by order of the Diputación Permanente del Reyno (2 vols., Saragossa, 1667); *Constitutions y Altres Drets de Catalunya* (3 vols., Barcelona, 1588); *Fori Regni Valentiae* (Valencia, 1547); and finally *Procesos de las Antiguas Cortes y Parlamentos de Cataluña, Aragón y Valencia* in Bofarull's *Documentos Inéditos . . . de la Corona de Aragón*, vols. I.–VIII. (Barcelona, 1847–1851).

CASTILE.

It is generally agreed among Spanish historians that the origin of the Cortes of Castile and Leon is to be found in the powerful Councils of Toledo, composed of nobles and clergy, which played such an important part in the government of Church and State during the

The comparative scantiness of available original material on the Cortes of the eastern kingdoms is partially counterbalanced by the large number of Aragonese, Catalanian, and Valencian writers on historical and legal subjects who flourished in the fifteenth, sixteenth, and seventeenth centuries. Of the historians, Jerónimo Zurita, by far the greatest, is too well known to need characterization here. Of the legal and institutional writers, the following are perhaps the most important (I have placed each author in chronological order under the country with which his book specially deals; most of the works here mentioned, however, contain information of value on the Cortes of all three realms of the crown of Aragon):

Aragon. Jerónimo Blancas, d. 1590, chronicler of the realm, wrote *Modo de proceder en Cortes de Aragón* (Saragossa, 1641). Blancas was also the author of *Commentarii Rerum Aragonensium* and *Coronaciones de los Reyes de Aragón*. See Prescott's *Ferdinand and Isabella*, note to section 11. of Introduction.

Jerónimo de Martel, appointed chronicler of the realm in 1597, wrote *Forma de celebrar Cortes en Aragón*, published with Blancas's *Modo de proceder* in 1641 at Saragossa. See Prescott, *loc. cit.*

Catalonia. Narciso de San Dionis, canon of Barcelona, wrote probably early in the fifteenth century *Compendium Constitutionum Cathaloniae Generalium*. Unprinted, but exists in manuscript in Spain. See Capmany, *Práctica . . . de celebrar Cortes*, p. 2; and Antonio, *Biblioteca Hispana Vetus*, II. 374.

Jacobo Calicio, jurist and knight—*jues de greujes* in the Cortes of 1432—wrote *Extravagatorium Curiarum* (Barcelona, 1518). See Gallardo, *Ensayo de una Biblioteca*, etc., II. 188–189.

Tomás Mieres, a native of Gerona, councillor of Alfonso the Magnanimous, wrote about 1435 *Apparatus super Constitutionibus Curiarum Generalium Cathaloniae* (2 vols., Barcelona, 1621).

Luis de Peguera, jurist, and *habilitador* in the Cortes of 1585 and 1599, wrote *Práctica, Forma y Stil de celebrar Cortes Generals en Catalunya* (Barcelona, 1632).

Gabriel Berart, d. 1640, jurist and royal official in Catalonia and Aragon, wrote *Speculum Visitationis* (published in 1600) and *Discurso . . . sobre la Celebracion de Cortes de los . . . Reynos de . . . Aragón* (1626).

Four other seventeenth-century writers may also be consulted with profit, viz., Antonio Oliva, *De Jure Fiscii*; Acacio Ripoll, *Regaliarum Tractatus*; Juan Pedro Fontanella, *De Pactis Nuptialibus*; and Miguel Sarrovira, *Ceremonial de Cortes*, etc.

The bibliography at the beginning of Coroleu and Pella, *Cortes Catalanas* (Barcelona, 1876), gives more information concerning these writers.

Valencia. Pedro de Belluga, jurist and knight, d. 1468, wrote *Speculum Principum ac Justitiae* (Paris, 1530). Cf. *Actas de las Cortes de Cataluña*, vol. I., pt. 1., *Prólogo*, p. xi.

Lorenzo Matheu y Sanz (1618–1680) of the Consejo Real, published at Madrid in 1677 *Tratado . . . de Cortes . . . de Valencia*. See Ximeno, *Escritores del Reyno de Valencia*, II. 85, and Fuster, *Biblioteca Valenciana*, I. 271.

Bartolomé Ribelles (1765–1816) wrote *Memorias Histórico-Críticas de las . . . Cortes . . . de Valencia* (Valencia, 1810). Cf. Fuster, II. 445–446.

Of the above works, Blancas, Martel, and Berart are in the Harvard College

last century and a quarter of Visigothic rule in the peninsula, and survived the shock of the Moorish invasion.² Soon after their reappearance in the Christian kingdoms of the north, however, the ecclesiastical functions of these councils began to pass to special assemblies of the clergy alone, so that the attributes of the older body were gradually restricted to temporal affairs.³ The culmination of this secularization of the functions of the old Visigothic councils is reached in the course of the twelfth and thirteenth centuries, when the kings, discerning in the third estate the strongest possible sup-

Library, Fontanella in the Harvard Law School Library, Peguera in the Astor Library in New York, and Ripoll in the Library of the Hispanic Society. As far as I know the others are not to be found in this country. Summaries and excerpts from many of them are given in Capmany's *Práctica y Estilo de celebrar Cortes*, compiled at the instance of the Junta Central at Seville in September, 1809, and published at Madrid in 1821. Further information about these authors and their works may be gleaned from Antonio's *Biblioteca Hispana Vetustis*, and *Biblioteca Hispana Nova*, Lipenius's *Biblioteca Realis Juridica*, and the *Diccionario Enciclopédico Hispano-Americano*.

Before going on to modern writers, passing mention should be made of Marina's *Teoría de las Cortes* (3 vols., Madrid, 1813) and Sempéré's *Histoire des Cortés d'Espagne* (Bordeaux, 1815). Both deal only with the Cortes of Castile, and are important rather as indicating the political ideas current at the time they were written than as pieces of historical research. As Marina's object was to justify historically the Cortes of 1812, and Sempéré's was to attack them, each book will be found a salutary corrective of the other.

Of more recent general works, Marichalar and Manrique's *Historia de la Legislación y Recitaciones del Derecho Civil de España* (9 vols., Madrid, 1861-1876) forms the basis for many later books. It seems on the whole trustworthy, though the complete absence of references renders it difficult, if not impossible, to verify its statements. Many pages of Danvila's well-known *Poder Civil en España* (6 vols., Madrid, 1885-1886) are taken exclusively from it. Antequera's *Historia de la Legislación Española* (fourth edition, Madrid, 1898) and the first two volumes of Altamira's epoch-marking *Historia de España* (4 vols., Barcelona, 1900-1910) are also valuable. Of the more special investigations, Colmeiro's Introduction (already mentioned) is of the first importance on the Castilian Cortes (all subsequent citations of Colmeiro except when otherwise specified refer to this work); a Russian monograph on the same topic by Vladimir Piskorski (*Kastilskie Kortesy*, Kiev, 1897) adds little or nothing to Colmeiro as regards matter, though it contains a useful bibliography. Coroleu y Pella's *Cortes Catalanas* (Barcelona, 1876) is a valuable work; Don Vicente de la Fuente has an illuminating essay on the early Cortes of Aragon in his *Estudios Críticos sobre la Historia y el Derecho de Aragón* (Madrid, 1885); and Danvila's *Estudios Críticos acerca de las Cortes y Parlamentos de Valencia* (Madrid, 1906) contains valuable material on that topic. Other books will be cited when reference is made to them in the text.

² Cf. Colmeiro, I. 3 ff., 109 ff., and Danvila, *Poder Civil*, I. 84 ff., 157 ff. Antequera, pp. 75-76, 120, and Cavanilles, *Historia de España*, I. 271, are the only important authorities who distinctly deny the descent of the Cortes from the Councils of Toledo. On these councils see Dahn, *Könige der Germanen*, VI. 430-504; Pidal, *Historia del Gobierno y Legislación*, pp. 259 ff.; Pérez Pujol, *Instituciones . . . de la España Goda*, III. 285 ff.

³ Colmeiro, I. 10; Altamira, I. 415.

port against the preponderant power of the nobles, began to summon the representatives of the municipalities to the national assembly—in Leon at least as early as 1188, in Castile probably not before 1250.⁴ At the same time the name of the institution changed; the older title of *concilio* (and sometimes *curia*) disappeared and was replaced by that of Cortes, which, though sometimes loosely used to designate assemblies of the earlier sort, is in strict accuracy applied only to those bodies in which the third estate was present.⁵ It may also be noted that after the final union of Castile and Leon under Saint Ferdinand (1230–1252) the custom of holding separate Cortes for each of the two kingdoms gradually fell into desuetude, and the practice of summoning a common assembly composed of the representatives of both came in to take its place.⁶ For the purpose of the present inquiry, therefore, it will suffice to describe the united body.

In examining the composition of the Castilian Cortes in this period, it is of the utmost importance to note at the outset that in sharp contrast to the practice in the realms of the crown of Aragon, no one had a right to sit or be represented there.⁷ The assembly being in theory at least a council of the king, summoned to aid him, was composed as the king desired, and varied from session to session accordingly. Neither all the same prelates nor all the same nobles were summoned to any two Cortes in this period, nor were the same towns ordered to send *procuradores*. The clergy were represented by archbishops, bishops, and the grand masters of the military orders selected by the monarch; custom indeed prescribed the presence of the Archbishop of Toledo and such of the higher clergy as

⁴ Altamira, I. 415–416; Danvila, *Poder Civil*, I. 158–159; Colmeiro, I. 10–15, 142 ff., 153 ff.; also Colmeiro, *Reyes Cristianos desde Alonso VI. hasta Alfonso XI.* in the Academia's *Historia General de España*, I. 259–270; Diercks's *Geschichte Spaniens*, II. 164 ff. The statement in the *Crónica General de España* that *ciudadanos* were present at a so-called Cortes at Burgos in 1169 is not generally accepted to-day. The assembly at Najera in 1137 which is called a Cortes in the *Ordenamiento de Alcalá* (tit. xxxii., *Prol.*) and in the *Fuero Viejo de Castilla* (lib. I., tit. i., ley ii.) was apparently composed of nobles alone.

⁵ Danvila, I. 160; *Catálogo*, pp. 1–8. Moreover, the name Cortes usually implied an assembly to which the nobles and clergy also came. Altamira, II. 74; *Cortes de León y de Castilla* (henceforth cited as *Cortes*), III. 21; *Nuev. Recop.*, lib. VI., tit. vii., ley ii. There were, however, several assemblies of the third estate alone during this period (*e. g.*, that of Medina del Campo in 1431; *cf.* *Catálogo*, pp. 54–55, and *Crónica de Juan II.*, año 1431, cap. xxviii. ff.) which took that name, so that the elimination of the two upper estates which culminated under Charles V. was not without medieval precedent.

⁶ The first General Cortes of both realms were held at Seville in 1250; the last separate ones for each realm in the first half of the fourteenth century. *Cf.* Altamira, II. 74, and Colmeiro, I. 47.

⁷ Altamira, II. 73; Colmeiro, I. 17.

were resident at court; but even these the king had the unquestioned right to omit to summon if he wished.⁸ The representation of the nobles was similarly irregular and determined on each occasion by the royal will. Dukes, marquises, counts, viscounts, *caballeros*, *escuderos*, and *hidalgos* were all apparently eligible for summons to this estate, as were the great officers of the crown, and, after it had been definitely established in the latter part of the fourteenth century, the members of the royal council;⁹ but the king selected whomsoever he pleased on each occasion. Subject-kings of the crown of Castile were also expected to attend or send representatives, when summoned; when the King of Granada acknowledged himself vassal of Ferdinand III., he promised to come to the Cortes with one of his *rico-hombres*, and the name of "Don Mahomat Abenazar, rey de Granada, vasallo del Rey", heads the list of those who confirmed the ordinances of Ferdinand IV. in the Cortes of Medina del Campo in 1305.¹⁰ Attendance, when summoned, was absolutely obligatory in this estate; failure to appear, if not excused, was tantamount to a declaration of revolt.¹¹

In theory, at least, the representation of the third estate was inseparably attached to the municipalities; but as the urban limits did not stop at the city walls, but included neighboring hamlets and isolated houses, the rural communities were not really excluded.¹² During this period, as with the other two estates, the king selected for summons on each occasion as many towns as he pleased, and whichever he pleased, but the tendency was steadily towards diminution. In the Cortes of Leon of 1188, of Seville in 1288, and of Alcalá in 1348, there is reason to think that all the towns in the realm were called on to send representatives.¹³ In the Cortes of Madrid in 1391, forty-nine municipalities sent *procuradores*; in the reign of Ferdinand and Isabella the number was finally fixed at eighteen.¹⁴ The causes which combined to bring about this decrease are too manifold to be considered here; they may be profitably compared to those which operated to bring about a similar result in contemporary England. It is worth mentioning, however, that the

⁸ Colmeiro, I. 16-18. The abbots who had regularly attended in the days of the *concilios* began to drop out in the thirteenth century. Save in the exceptional Cortes of 1527, the last occasion on which they were present was the Cortes of Burgos of 1315.

⁹ Colmeiro, I. 16-17; *Cortes*, II. 189, 314, III. 10.

¹⁰ Colmeiro, I. 16; *Cortes*, I. 178.

¹¹ Colmeiro, I. 17; *Crónica de Pedro I.*, año II., cap. 11.

¹² Colmeiro, I. 18-19; *Cortes*, I. 45, 49; Lavisé and Rambaud, III. 483.

¹³ Colmeiro, I. 19-20; *Crónica de Sancho Cuarto*, cap. 11.

¹⁴ *Cortes*, II. 483-485, IV. 111; Pulgar, *Crónica*, II. xciv. Three other towns acquired representation in the seventeenth century. Cf. Colmeiro, I. 23 ff.

blame for this unfortunate development is to be laid less at the door of the kings than of the towns themselves, which not only lost their early privileges by failing to insist on their observance, but also actually labored, in a spirit of local antagonism, eminently characteristic of Spain, to exclude one another from the right of representation.¹⁵

The number of representatives or *procuradores*¹⁶ each town could send varied, until it was fixed at two by a law of John II. at the request of the Cortes of Madrid of 1429-1430.¹⁷ Another law of the same period specifies that the *procuradores* must be *personas honradas*, and not *labradores* or *sesmeros*.¹⁸ The method of choice of the *procuradores* varied according to the *fuero* or charter of the town that sent them, and for the most part in general consonance with the methods of selection of the local municipal officers. Usually it was determined by lot (*insaculación*); sometimes by election by a more or less restricted number of inhabitants; sometimes by a system by which certain leading citizens served in turn; sometimes by a combination of these methods.¹⁹ Whatever the local practice, it seems clear that up to the second quarter of the fifteenth century the choices were fairly made, without royal interference; but it is equally obvious that from the beginning of the dictatorship of Alvaro de Luna to the accession of Ferdinand and Isabella there were increasingly scandalous corruption and intimidation by the crown and the magnates, until in the reign of Henry the Impotent the king on several occasions actually gave away outright the privilege of representing this or that town without even going through the farce of observance of constituted forms.²⁰ Under the Catholic Kings there is a temporary cessation of these evils, but they begin again and reach their climax under the House of Hapsburg.²¹

Every city represented in Cortes gave its *procuradores* credentials and letters of instruction and guidance, or *poderes*, as they were called. They were carefully worded and the *procuradores* were forbidden to deviate from them in the slightest degree.²² If some unexpected question arose in the Cortes, the *procuradores* usually consulted their constituents before giving their votes, and

¹⁵ Colmeiro, I. 27-28; *Cortes*, III. 782-785, IV. 233, 239.

¹⁶ On the use of this name see Colmeiro, I. 28, 203; *Cortes*, I. 170.

¹⁷ *Cortes*, II. 483-485, III. 85; *Nuev. Recop.*, lib. VI., tit. VII., ley IV.

¹⁸ *Nuev. Recop.*, lib. VI., tit. VII., ley IV.

¹⁹ Marina, I. xx; Colmeiro, I. 29-30, 33-34; Muñoz y Romero, *Fueros Municipales*, *passim*.

²⁰ Colmeiro, I. 30 ff.; *Nuev. Recop.*, lib. VI., tit. VII., leyes v. and VII.; *Cortes*, III. 85, 101, 135, 270, 407, 569, 715.

²¹ Sandoval, *Carlos V.*, lib. III., section L.; lib. V., section XIII.

²² Colmeiro, I. 37-41; *Cortes*, III. 642.

they attempted, though unsuccessfully, to wrest from the king the right of interpretation of the *poderes* in case there was some doubt as to their meaning.²³ Until the character of these *poderes* was modified by the monarchs of the House of Hapsburg, their comprehensiveness and definiteness, and the strictness with which they were obeyed, constituted one of the most important safeguards of Castilian parliamentary liberty. The salaries and journey money of the *procuradores* were paid by the towns that sent them, up to the latter part of the fourteenth century.²⁴ Under John II. the custom of the king's paying the salaries began,²⁵ but was supplanted in turn in the sixteenth century by the practice of the Cortes's regularly adding a fixed sum to the *servicio*, "para gastos de Cortes"—a grant which, as experience was to prove, seldom reached its intended destination.²⁶

The right to summon the Cortes was inherent in the crown, an inalienable royal prerogative; in case the king was absent, ill, or under age, it was exercised by his representatives in his name and not of their own right.²⁷ Time and place of meeting were left absolutely to the royal discretion; there was no rule as to the frequency of sessions, or the size, locality, or importance of the place where they occurred; on one occasion the Castilian Cortes met at Bubierca in Aragon.²⁸ At the opening session, which was attended by the king and all three estates, the first business was the presentation of the *poderes* by the *procuradores*. Then followed the speech from the throne, in which the purposes of the meeting were set forth, and formal replies were made by each estate; the head of the House of Lara answering first, for the nobles; the Archbishop of Toledo, next, for the clergy; and finally the city of Burgos for the third estate.²⁹ These formal proceedings over, the estates usually

²³ *Crónica del Rey Juan II.*, año 1430, cap. III.; *Cortes*, III. 407-408.

²⁴ *Cortes*, II. 140.

²⁵ *Crónica de Juan II.*, año 1422, cap. xx.

²⁶ *Cortes*, IV. 259; *Actas de las Cortes de Castilla*, published by the Congreso de los Diputados (cited henceforth as *Actas*), I. 54, III. 82, 140, 145, 272, 299, 438, IV. 88, 107, 236, 381, VI. 306, 315, 319, 653, 719, VII. 47, VIII. 106, 134, 351, 653.

²⁷ Colmeiro, I. 45-48.

²⁸ *Ibid.*, and *Crónica de Pedro I.*, año XIV., cap. III.

²⁹ Colmeiro, I. 52-55. Burgos, however, was unable to assert this privilege without a long and bitter struggle with Toledo, utterly characteristic of the intensely local nature of Spanish pride and patriotism. It lasted from 1348 till 1570; in 1402 the disputants almost assaulted each other; on another occasion the king was obliged to intervene and forcibly eject the two Toledans who had pre-empted the places of Burgos; in 1506 "they all arose and shouted at one another so loud that not a word could be understood." The matter was really settled each time by a compromise. *Crónica de Pedro I.*, año II., cap. xvi.; *Crónica de Juan II.*, año 1406, cap. v.; Marina, I. 258-271; *Actas*, I. 32, III. 24.

separated for deliberation, but communicated with one another by messengers. Of the nature of the debates it is almost impossible to learn anything, but we may safely conjecture that it was very quiet and probably ineffective and disorganized.³⁰ The session lasted till the business was done, but there is no record during this period of prolonged meetings such as took place in the time of Philip II. Lastly occurred the presentation of petitions by the estates to the crown. There was apparently no final meeting of the king and the three estates for formal ratification of what had been done, comparable to the *solio* of the Cortes of Aragon.³¹ The estates usually separated without any guarantees that their wishes would be respected, though it was the usual custom for the government to send back to the cities, and sometimes to the bishops and nobles, full copies of the *cuadernos*, or lists of petitions with the royal answers.³²

Parliamentary privilege in the Castilian Cortes stood very high. In 1302 and 1305 complete security and freedom from arrest and seizure of property were promised the *procuradores* during sessions of the Cortes and while they came and went; and in 1351 this promise was confirmed, save in a few exceptional cases, though subsequent petitions would seem to indicate that the rule was not always enforced.³³ By an ordinance of 1379, the *procuradores* were granted the same entertainment which Las Siete Partidas accorded the king and his immediate followers—a privilege which, again, was by no means invariably realized in fact.³⁴ There was apparently no restriction whatever on freedom of speech during sessions up to the famous case of Dr. Zumel under Charles V.³⁵ The sole occasion earlier than this on which the king attempted in any way to rebuke or punish a *procurador* was that of Mosen Diego de Valera, who wrote a most insolent letter to John II., “on account of which he was in great peril and it was ordered that nothing which was due him from the king should be paid him, not even his wages”, but this was for an act done outside the Cortes, not a part of his official functions.³⁶

The powers of the Castilian Cortes in this period may be classified under three heads—financial, legislative, and miscellaneous.

³⁰ Cf. here Mariéjol, *L'Espagne sous Ferdinand et Isabelle*, p. 141.

³¹ M. J. Gounon-Loubens, *Essais sur l'Administration de la Castille*, pp. 108–109; Marina, I. 304–311.

³² *Cortes*, I. 476; Colmeiro, I. 91.

³³ *Cortes*, I. 163, 180; II. 20, 62, 541.

³⁴ *Partidas*, part II., tit. IX., ley xv.; *Cortes*, II. 287–288, IV. 425; Colmeiro, I. 90.

³⁵ Sandoval, lib. III., sections VII.–X.

³⁶ Colmeiro, I. 96; *Crónica de Juan II.*, año 1448, cap. IV.

From at least as early as the middle of the thirteenth century, it was a recognized custom that when the king desired an extra grant or *servicio* over and above what came to him regularly, of his own right, he must ask it of the national assembly.³⁷ In 1307 this custom passed into written law and was confirmed as such in 1329, 1391, 1393, 1420, and afterwards.³⁸ Moreover, at the close of the fourteenth century, when the Cortes were at the height of their power, this important privilege was buttressed and fortified by several temporarily successful demands for an audit, and occasional insistence on a reduction of the sums the king required.³⁹ Three times, at least, the Cortes even secured a partial right of appropriation of the sums they voted, and once they forced the king to deposit their grant with two persons with the stipulation that nothing should be taken from them save for the Moorish war, for which it had been given.⁴⁰ This seemingly impregnable financial position, however, was seriously weakened in two different ways. First, the fact that the nobles and clergy were generally exempt from taxation (despite several attempts to subject them to it) left the *procuradores* to bear alone the brunt of every financial struggle against the crown, so that they usually submitted tamely to the royal demands as the records plainly show.⁴¹ Second, by utilization of loans, invention of new imposts, and above all by perpetually postponing the definite settlement of the difficult question as to whether or not certain taxes (especially the blighting *alcabala*) could be levied without the consent of the national assembly, the crown was able to gain alternative means of supply and thus circumvent the opposition which it might occasionally be unable to overthrow.⁴² Their failure to make the most of their financial rights cost the Castilian Cortes dear in other directions, as the sequel will show.

The share of the Castilian Cortes in legislation rested on a somewhat different basis. The power to make laws resided exclusively

³⁷ Colmeiro, I. 72.

³⁸ *Cortes*, I. 187, 428, II. 489, 527, III. 23-25, 29, IV. 378; Altamira, II. 73, says that in 1328 it was ordained that unanimity of all the *procuradores* was necessary to the voting of the *servicio*, a statement possibly based on the Madrid copy of the *cuaderno* of the Cortes of 1329, which contains the phrase "otorgados por todos los procuradores". *Cortes*, I. 428 n., 401 n.

³⁹ *Cortes*, II. 408; Colmeiro, I. 77; *Crónica de Juan II.*, año 1406, caps. XI.-XII.

⁴⁰ *Cortes*, III. 6, 7; *Crónica de Juan II.*, año 1407, cap. XII., año 1411, cap. VI., año 1418, cap. VIII., año 1425, cap. X.

⁴¹ Colmeiro, I. 79-80, 84-85; *Cortes*, II. 402, 408; *Crónica de Juan II.*, año 1406, cap. XIII.

⁴² *Cortes*, II. 257, 489, 527, III. 97; *Crónica de Juan I.*, año X., cap. III.; will of Isabella the Catholic in Dormer, *Discursos Varios*, pp. 382-383; Colmeiro, I. 79 ff.

in the crown, despite the statements of Marina and other enthusiastic *doceañistas* to the contrary.⁴³ For the revocation of a valid law the consent of the Cortes was necessary, according to an ordinance of 1387, but it is by no means clear that this enactment was rigidly enforced during this period; certainly it was not in the sixteenth century.⁴⁴ The most important part of the Cortes's share in legislation, however, lay not here, but in their right to draw up a set of petitions to the crown, which if accepted became the law of the land. This practice, begun in 1293, became fixed in 1317, and was utilized sometimes by the nobles and clergy, though most frequently, of course, by the third estate.⁴⁵ The petitions range over the very widest diversity of topics—administration of justice, measures of police and public safety, dealings with Moors and Jews, granting of letters of naturalization, standards of weights and measures, *barragania*, or licensed concubinage of the clergy, etc.; some were of general, some of local, import.⁴⁶ Though the Cortes had no means of enforcing their observance they were often accepted and acted upon. That the Castilian assembly was unable to turn this right of petition into a right of legislation (like the English Parliament at this period), was due to its ineffective procedure, its failure to make redress precede supply,⁴⁷ and to the general lack of co-operation and of political opportunism which characterized its members.

Though based on royal promises and valid ordinances, most of the powers of the Castilian Cortes not included under legislation or finance were really only exercised according to the discretion of the crown. Such was the case in respect to their control of foreign policy,⁴⁸ and the provision that they must be consulted in matters of importance to the well-being of the realm.⁴⁹ Their share in the recognition of a new sovereign, however, demands more careful definition. Dr. Zumel in the sixteenth century and Marina in the nineteenth were totally wrong in implying that the validity of a king's accession depended on his recognition by the Cortes, and his swearing to observe the established laws in their presence. It was customary,

⁴³ *Partidas*, part I., tit. 1., ley XII.; *Ord. de Alcalá*, tit. XXVIII., ley 1.; *Cortes*, I. 542, II. 299, 314, 362-378, 449-450, 471; Colmeiro, I. 66 ff.

⁴⁴ *Cortes*, II. 371-372; cf. also *ibid.*, III. 406-407, and Colmeiro, I. 68.

⁴⁵ *Cortes*, I. 106 ff., 299 ff. Hence the various *ordenamientos de prelados* and *hidalgos*, e. g., in 1295, 1315, 1351, 1390, etc.

⁴⁶ *Cortes*, I. 145, 179, II. 14, 249, 303, III. 389-390, 496; Altamira, II. 71-72.

⁴⁷ Cf. *Cortes*, III. 496; and the unfulfilled law, *Nuev. Recop.*, lib. VI., tit. VII., ley VIII.

⁴⁸ *Cortes*, I. 40, III. 809-810; *Crónica de Juan II.*, año 1429, cap. III., año 1431, cap. XXV., año 1437, cap. VI.; Colmeiro, I. 57 ff.

⁴⁹ *Cortes*, III. 21; *Nuev. Recop.*, lib. VI., tit. VII., ley II.

indeed, for the national assembly to meet when a king died, to swear to the heir and receive his oath, but this was by no means indispensable to the making of a new monarch.⁵⁰ In the case of the accession of a king under age the powers of the Cortes were somewhat more extensive and included considerable influence in the nomination of regents and their exercise of power; and they usually recognized the heir to the throne during the lifetime of his predecessor, and were empowered to accept royal abdications.⁵¹

Allowing for all limitations, the composition and powers of the Castilian Cortes in the fourteenth and fifteenth centuries indicate, in theory at least, a very high degree of parliamentary development for that period, though far less than the Cortes of the eastern kingdoms, as the sequel will show.

The realms of the crown of Aragon had reached a far more advanced stage of political development than had Castile, in the period with which this essay deals. United under a series of really remarkable monarchs with an active foreign policy, a patriotic aristocracy and third estate prevented healthy centralization from degenerating into harmful despotism. The Cortes of the eastern kingdoms clearly reflect these characteristics: they were much more like the assemblies of modern constitutional monarchies than were the Cortes of Castile, especially in that they realized in fact a far larger proportion of the rights and privileges that they claimed in theory than did the latter. Owing to lack of space it will be impossible to attempt any detailed description of the Cortes of Aragon, Catalonia, and Valencia; I shall merely endeavor to enumerate the principal features that differentiate them from those of Castile and from one another. For the same reason I have omitted any mention of the General Cortes of the three kingdoms, especially since these were, to all intents and purposes, merely a juxtaposition of the Cortes of each separate realm.⁵²

ARAGON.

The origin of the Cortes of Aragon is even more difficult to trace than that of the Cortes of Castile; there is little evidence to connect

⁵⁰ On this cf. Colmeiro, I. 59 ff.; *Partidas*, part II., tit. XIII., leyes XIX. ff.; *Cortes*, III. 1; Marina, II. 24 ff., 47 ff.; *Crónica de Pedro I.*, año II., cap. XII. There are several instances of royal accessions without any celebration of the Cortes till long afterwards.

⁵¹ Colmeiro, I. 60-63, 150-151; *Cortes*, I. 132; Altamira, I. 574. When Charles V. abdicated without consulting the Cortes he frankly recognized that he violated precedent. Sandoval, lib. XXXII., section XXXVIII.

⁵² Cf. here Mariéjol, *L'Espagne*, p. 145; Coroleu and Pella, pp. 99-103.

them with the ancient Visigothic *concilios*.⁵³ It is probable that the earlier writers have been mistaken in giving the name Cortes to the famous assembly at Jaca in 1071; certainly the third estate was not represented till 1134 at the earliest, probably not till 1163, and possibly not till the thirteenth century.⁵⁴ Apparently the clergy were unaccountably slow in asserting their right to sit in the national assembly. They sent two representatives in 1247 and again in 1265, but according to Blancas were not really admitted as an estate of the realm till 1301.⁵⁵ We can scarcely regard the Aragonese Cortes as completely organized till the beginning of the fourteenth century.

Three distinguishing features of their composition deserve to be mentioned, in all of which they contrast sharply with the Cortes of Castile. In the first place, the Aragonese aristocracy, the most ancient and powerful estate of the realm, was divided, according to degree, into two categories, which sat in two separate houses—the *brazo noble* and the *brazo de caballeros*—so that the Cortes of this kingdom was composed of four estates instead of three.⁵⁶ Second, the *ricos-hombres* (or members of the *brazo noble*) and *caballeros* had the right to attend the Cortes, even though not summoned by the king, provided they could prove their rank and lineage, and show that they held no municipal office enabling them to vote for *procuradores* of the third estate, and so to obtain double representation; and cities and towns which could show that they had been summoned once to send representatives continued to enjoy that privilege. The membership of the clerical estate was also pretty definitely fixed by the beginning of the fourteenth century, so that the composition of the Aragonese Cortes as a whole was by no means as largely controlled by the crown as was that of the Cortes of Castile.⁵⁷ Members of the clerical estate and of the *brazo noble*, moreover, enjoyed the right to send to the Cortes *procuradores* or substitutes in their places, and this privilege extended to *ricos-hombres* who were under age, and occasionally to women of high rank; the *caballeros*, on the other hand, were always obliged to attend in person.⁵⁸ Third, the Justicia of Aragon was “Juez de las Cortes”, and his presence, or

⁵³ Marichalar and Manrique (cited hereafter as “M. and M.”), VI. 165 ff.; V. Lafuente, *Las Primeras Cortes de Aragón*, in *Obras*, II. 14–76.

⁵⁴ *Ibid.*, and Bofarull, *Documentos Inéditos*, I.–VIII., *passim*; Zurita, *Anales*, lib. I., cap. LIII., lib. II., cap. XXIV.; Danvila, *Poder Civil*, I. 328; and Danvila, *Valencia*, p. 274; Altamira, I. 456; Swift, *James the First of Aragon*, pp. 160 ff.; Diercks, II. 164 ff. An accurate and final settlement of the date of the advent of the third estate would be of importance as determining the question of priority between Aragon and Castile.

⁵⁵ Blancas, *Modo de proceder*, cap. vi.; M. and M., VI. 170.

⁵⁶ Blancas, *ibid.*; Martel, *Forma de celebrar*, caps. x., xvi.

⁵⁷ *Ibid.*; and M. and M., VI. 170–178.

⁵⁸ M. and M., VI. 174–175; Martel, caps. XVIII.–XXI.

that of one of his lieutenants, was necessary for the meeting of the assembly.⁵⁹

The king alone could summon the Cortes, and his presence was a *sine qua non* of their opening and celebration; if he deputed this function to another, the Cortes had to sanction it every time.⁶⁰ They must meet in Aragon, in a place of at least 400 houses and on royal domain.⁶¹ Clauses demanding annual Cortes in the General Privilege of 1283 and in the Privilege of Union in 1287 apparently were superseded in 1307 by a law providing for meetings of the Cortes once in two years; neither of these requirements, however, was observed in practice.⁶² The forms, ceremonies, and order of seating in the opening session were carefully and minutely regulated.⁶³ Particularly noteworthy was the complicated arrangement for three prorogations of four days each in order to give tardy members a chance to arrive; and in case of their failure to do so after the expiration of twelve days, the formal pronouncement of their contumacy by the Justicia.⁶⁴ When the estates separated for the transaction of business, each one of them proceeded to elect *habilitadores* (four for the *caballeros* and two from each of the other *brazos*), whose duty it was to examine the summons, *poderes*, and proofs of qualification to sit of every member of the estate in question.⁶⁵ This process of *habilitacion* was very strictly carried out: the slightest deviation from the established rule excluded. Appeal from the sentence of the *habilitadores* lay to the Justicia, who took the matter before the full Cortes.⁶⁶ After 1436 it was customary for each estate to nominate *promovedores* to regulate and propound business, and from a much earlier date *tratadores* to deal with the other estates and the king, who also named *tratadores* of his own.⁶⁷ In theory absolute unanimity of every member of each *brazo* was required on every measure, a fact which has caused some writers to exclaim that the passage of every law was a miracle in Aragon.⁶⁸

⁵⁹ Martel, cap. xxxvii. On the Justicia see M. and M., VI. 265-398; J. Ribera, *Orígenes del Justicia de Aragón*, and articles by A. G. Soler in *Revista de Archivos, Bibliotecas y Museos* (tercera época), V. 201 ff., 454 ff., 625 ff.

⁶⁰ Martel, caps. v. and vi.; Blancas, cap. iii.

⁶¹ Martel, cap. vii.; Blancas, cap. iv.

⁶² *Fueros de Aragon*, I. 6; M. and M., VI. 203. See also the list of Cortes in the *Catálogo* and in Antequera, pp. 631-632. The text of the General Privilege is to be found in the *Fueros de Aragón*, I. 6-9, and that of the Privilege of Union in M. and M., V. 34-40.

⁶³ Martel, caps. xxx. ff.; Blancas, caps. viii.-x.; Berart, cap. iii.

⁶⁴ Martel, caps. xxxiii. and xxxiv.

⁶⁵ Martel, caps. xlii. and xliii.; Blancas, cap. xvi.; Berart, cap. vi.

⁶⁶ M. and M., VI. 213-214.

⁶⁷ Martel, caps. xlv.-l.; M. and M., VI. 214-216.

⁶⁸ Danvila, *Poder Civil*, I. 330.

Practically, however, it would seem that a great many pieces of business were decided by majority vote, and moreover the practice of nominating by majority vote a committee of four or more members for each *brazo*, with full powers to transact business, often rendered the provision requiring unanimity quite nugatory.⁶⁹

Last of all came the *solio* or formal meeting of king and estates, in which all the measures of the session were solemnly proclaimed and sworn to—an admirable means of preventing the sovereign from ignoring those doings of the assembly which were not to his liking.⁷⁰ And as a final method to secure this end, a committee of the estates, or Diputacion del Reyno, usually composed of two members of each *brazo*, was chosen to remain in session during intervals between sessions, to watch over the observance of the laws, and report to the Cortes any infraction of them. A full account of the duties and powers of this body will be found in the Fueros of Aragon; they may perhaps be summarized under three heads: (1) to oversee the administration of the public revenue (not the *patrimonio real*); (2) to deal with all infractions of the *fueros* by public officials or private persons; (3) to keep the peace, in company with the Justicia of Aragon.⁷¹

The powers of the Aragonese Cortes may be briefly stated as follows. Their consent was absolutely necessary to the passing of all laws—the king, unlike the Castilian monarch, could not legislate without them.⁷² By them alone could an extra grant, over and above what came to the king in his own right, be made;⁷³ without their consent no new tribute or duty could be imposed, nor the rate of an old one diminished or increased.⁷⁴ The Cortes received the oath of a new king to observe the laws, and recognized him as monarch; they alone could grant letters of naturalization; truces, peaces, and declarations of war were usually ratified by them; occasionally they confirmed and even nominated ambassadors.⁷⁵ Though the

⁶⁹ Such is the theory of M. and M., VI. 217–220. Apparently in case such committees were appointed, the *procuradores* of Saragossa invariably constituted one-half of that of the third estate, so that no measure could be adopted on such occasions without the consent of the capital of the realm.

⁷⁰ Martel, cap. LXXVIII.; M. and M., VI. 222.

⁷¹ *Fueros de Aragón*, I. 26, 46, 66, 72, 75, 107, 213–215, 221, 223–225, 236, 242, 244, 265–266, 268–270, 284.

⁷² Blancas, cap. XIX.; Berart, fols. 20 ff.; M. and M., VI. 186–187. Hence the formula which usually precedes the Aragonese laws: “El señor Rey de voluntad de la Corte estatuesce y ordena.” Cf. *Fueros de Aragón*, *passim*.

⁷³ Blancas, cap. XVIII.; Martel, cap. LXXI.; Berart, fol. 33; M. and M., VI. 189 ff.

⁷⁴ *Fueros de Aragón*, II., Actas de Cortes, pp. 10 ff.; Zurita, lib. IV., cap. xxxviii.; Martel, caps. LXXII.–LXXV.; Berart, fols. 33–37; M. and M., VI. 190.

⁷⁵ M. and M., VI. 188–189, 195; Lea, *Inquisition*, I. 229; Balaguer, *Obras*, VII. 120–123.

power over the appointment of the chief officers of state granted them in the Privilege of Union would seem to have lapsed with the abolition of that Privilege in 1348, there are subsequent cases where such a power was claimed and exercised.⁷⁶ Up to 1461 the Cortes were charged with the *residencia* of the Justicia, and up to 1348 they heard many of the disputes between king and subjects, which at that date were transferred to that tribunal.⁷⁷ Finally they had a most extensive power of investigating, in conjunction with the Justicia, *greuges*, or wrongs done by the king, his officers, or the estates, to one another, to individuals, or groups of individuals of whatever rank, or vice versa, in defiance of the laws, and of demanding that justice be done.⁷⁸ The procedure and other powers of the Cortes were such as ensured attention to these demands.

CATALONIA.

It seems probable that the Cortes of Catalonia developed gradually out of the assembly of the feudatories of the Counts of Barcelona. The date of the advent in them of the third estate is a matter of dispute,⁷⁹ but for the purpose of the present article it will suffice to begin with the year 1283, when as an echo of the issue of the struggle over the General Privilege in Aragon, Pedro III. was obliged to promise to summon once a year in Catalonia an assembly of nobles, clergy, and third estate to discuss the welfare of the realm, unless hindered by some good and sufficient cause.⁸⁰ There were but three *brazos* in the Catalonian Cortes; several attempts were indeed made in the late fourteenth and early fifteenth centuries to create a "*Braç dels cavallers generosos é homens de paratge*" on the model of the *brazo de caballeros* of the Cortes of Aragon, but they never met with any permanent success.⁸¹ About a dozen towns and cities were

⁷⁶ Zurita, lib. X., caps. xxxiv. and xliii.; M. and M., V. 38, VI. 194.

⁷⁷ M. and M., VI. 195-196.

⁷⁸ Martel, caps. liv.-lix.; Blancas, cap. xiv.; Berart, fol. 27.

⁷⁹ On this see *Cortes de Cataluña*, vol. I., pt. 1., pp. 3 ff.; M. and M., VI. 509-510, VII. 196-220; Coroleu and Pella, cap. 1.; Danvila, *Poder Civil*, I. 259; Danvila, *Valencia*, p. 275; Altamira, I. 469; Altamira, in *Revue Historique*, LXXIV. 143; Fidel Fita in *Boletín de la Real Academia de Historia*, XVII. 385-428; Balaguer, *Historia de Cataluña*, lib. III., cap. x. The assembly of 1064, which approved and promulgated the *Usajes*, was probably the first assembly in Spain of a legislative character, and dealing with political affairs, composed exclusively of secular persons; but the evidence of the presence of the third estate is slight. It is safe to say that the representatives of the municipalities did not enter the Catalonian Cortes till the early thirteenth century, and that their rights there were not definitely recognized till 1283.

⁸⁰ *Cortes de Cataluña*, vol. I., pt. 1., p. 147.

⁸¹ *Cortes de Cataluña*, VII. 46 ff.; M. and M., VII. 198-199; Coroleu and Pella, pp. 58-59.

usually represented in the third estate;⁸² most of them sent one *procurador* or *síndico*, several sent two, but Barcelona sent five and sometimes more. Apparently each town had but one vote, irrespective of the number of its representatives,⁸³ but Barcelona's predominance was perfectly obvious and deeply resented.⁸⁴ The method of selection of the municipal representatives varied in this period according to local custom—not until the reign of Ferdinand and Isabella did *insaculación* become the regular practice.⁸⁵ Full and definite instructions were given to the *síndicos* by the Concejo of the municipality they represented (in Barcelona this function was performed by the Vintiquatrena de Cort—a most interesting body—a sort of permanent commission of the Concejo, selected for the special purpose of supervising and counselling the *síndicos*, even down to the minutest details of their private life).⁸⁶ Neglect of these instructions might subject the delinquents to the censures of the Church or even to a revocation of their powers.⁸⁷ The crown selected the day and place of meeting; the latter must be in Catalonia and a town of at least two hundred houses.⁸⁸ In 1301 the law demanding annual Cortes was changed to a provision for triennial ones, but the records show that even this was not always observed.⁸⁹

Perhaps the most striking feature of the intensely formal and rigid procedure of the Catalanian Cortes was the complicated ceremony of the *habilitación*. No less than thirty-six rules were laid down concerning the qualifications of members.⁹⁰ Unanimity of votes, obligatory in all four estates in Aragon, was restricted here to the nobles.⁹¹ There was, of course, no Justicia. At the concluding session or *solio*, which resembled that of Aragon, the sovereign was obliged to swear to the measures which the Cortes had passed, before he was granted the *donativo*.⁹² From the end of the fourteenth century a Diputación General of six persons, one from

⁸² *Cortes de Cataluña*, *passim*. A list of the towns which had sent representatives to the Cortes of Aragon, Catalonia, and Valencia before 1700 is to be found in Capmany, pp. 4-5.

⁸³ See Peguera in Capmany, p. 66; M. and M., VII. 201, 211-212; and Coroleu and Pella, p. 61; but see also Altamira, I. 469.

⁸⁴ *Cortes de Cataluña*, VII. 46 ff.

⁸⁵ Coroleu and Pella, pp. 69-83.

⁸⁶ *Ibid.*, pp. 84-86.

⁸⁷ *Ibid.*, pp. 86-94.

⁸⁸ *Ibid.*, pp. 33-37.

⁸⁹ *Cortes de Cataluña*, vol. I., pt. 1., pp. 185-186, and *passim*; M. and M., VII. 204. See also list of Cortes in the *Catálogo* and in Antequera, pp. 632-633.

⁹⁰ M. and M., VII. 206-209; Coroleu and Pella, pp. 107-108.

⁹¹ M. and M., VII. 211; Coroleu and Pella, pp. 116-131; Fontanella, vol. I., claus. III., gloss. III., sections 72 ff.

⁹² M. and M., VII. 212-214; Coroleu and Pella, pp. 131-133.

each estate and three *oidores de cuentas*, with powers similar to the corresponding institution in Aragon, acted during the intervals between the sessions.⁹³

The powers of the Catalanian Cortes were very extensive. To them a new monarch must swear to observe the laws and liberties of Catalonia before receiving their oath of fidelity.⁹⁴ The sovereign could not legislate, nor abrogate or suspend legislation without their consent, though he might issue ordinances in consonance with, or supplementary to, existing laws.⁹⁵ Their financial powers and those of the Diputación General—similar to those of the corresponding institutions in Aragon—were perhaps of greater importance, owing to the smallness of the private revenue of the crown, and they gave the Catalanian Cortes a great hold on the general administration and policy of the land.⁹⁶ Finally, through committees, they exercised wide powers of inspection and control over royal officers, over the interpretation and execution of the laws; and they presented *agravios* or grievances for rectification.⁹⁷ Altogether the Cortes of Catalonia in this period resembled a modern legislative body perhaps more closely than any other in the peninsula; more powerful than those of Castile, they were free from most of the anomalies which occasionally crippled the efficiency of those of Aragon.⁹⁸

VALENCIA.

The Cortes of Valencia possessed all, or nearly all, the distinctive features characteristic of the Cortes of the eastern kingdoms—extensive powers in legislation, administration, and finance, and an efficient method of procedure with *tratadores*, *solio*, and Diputación del Reyno. They resembled much more closely, however, the Cortes of Catalonia than those of Aragon. They were composed of three *brazos* instead of four, with unanimity obligatory only in the nobles; there was no Justicia; an unenforced law provided for a meeting every three years.⁹⁹ They date from the reign of James the Con-

⁹³ M. and M., VII. 386–388.

⁹⁴ *Ibid.*, VII. 215–216; Coroleu and Pella, pp. 16–18, 48 n., citing Calicio, Fontanella, Ripoll, and Berart.

⁹⁵ *Cortes de Cataluña*, vol. I., pt. I., p. 193; Fontanella, vol. I., claus. III., gloss. III., sections 67–70; M. and M., VII. 216–217; Coroleu and Pella, pp. 15–16, 18.

⁹⁶ Coroleu and Pella, pp. 114–115.

⁹⁷ *Cortes de Cataluña*, vol. I., pt. I., pp. 219 ff., 263–265; M. and M., VII. 217–218.

⁹⁸ Coroleu and Pella, pp. 137–158.

⁹⁹ Cf. Matheu y Sanz, Belluga, and Villaroya in Capmany, pp. 161–214; M. and M., VII. 453–454; Danvila, *Poder Civil*, I. 361–363.

queror, who drove the Moors out of Valencia, but, like the Cortes of Catalonia, they cannot be regarded as firmly established till the time of Pedro the Great and the General Privilege (1283).¹⁰⁰

Two or three peculiarities remain to be noted. The preponderance of the city of Valencia in the third estate was far clearer than that of Barcelona in the Catalanian, or of Saragossa in the Aragonese, Cortes. It held no less than five votes, while the other cities held but one apiece, and it apparently claimed always to represent one-half the *brazo real*, no matter how many other cities sent delegates; this exaggerated pretension, however, was not made good.¹⁰¹ Another interesting point is the privilege held by the Valencian estates of meeting separately without the royal summons, after the Cortes had been formally dissolved by the king, to deal with such matters as concerned each one and to present petitions to the crown. When they met in this way, they took the name of *estamentos*, instead of *brazos*.¹⁰² According to Marichalar and Manrique, the third estate on these occasions was represented merely by the deputies of the city of Valencia, since the other towns of the realm were not allowed to send delegates without a summons from the crown.¹⁰³ Apparently the provision demanding unanimity in the nobles caused trouble again and again. As late as 1645, when there was a question of extending the session into the night in order to conclude some important piece of business, and over fifty nobles had agreed to do so, one member declined on the ground that he was tired and wanted to go to bed; on his refusal to yield to the representations of the rest, an old and irritable baron arose and demanded that "that idiot be thrown into the street". The irreconcilable was accordingly ejected from the room, and the session continued.¹⁰⁴

NAVARRÉ.

The Cortes of Navarre in the fourteenth and fifteenth centuries were quite as much a French as a Spanish institution, for the country was ruled by French sovereigns during this period, and, despite the statements of the older historians to the contrary, it is by no means certain that there was anything which could be fairly called

¹⁰⁰ Danvila, *Valencia*, cap. VII., which corrects the *Catálogo*; Altamira, I. 478.

¹⁰¹ Matheu y Sanz in Capmany, p. 185; M. and M., VII. 456; Danvila, *Valencia*, pp. 284-285. Cf. the position of Saragossa on committees of the third estate in Aragon.

¹⁰² M. and M., VII. 456-457; Danvila, *Valencia*, p. 285.

¹⁰³ M. and M., VII. 457.

¹⁰⁴ *Ibid.*, VII. 455-456.

Cortes under the line of Spanish kings which ended in 1234.¹⁰⁵ Councils of magnates doubtless met, from the earliest times, and formed a background for a regular national assembly, but we may be certain that the third estate had no share in legislation till well into the fourteenth century, and that the beginning of the Cortes's financial power dates from the accession of the House of Évreux.¹⁰⁶ When once attained, however, the national assembly's control of the revenue was of the very greatest importance, and after the beginning of the fifteenth century included the very unusual right of voting regular as well as special taxes.¹⁰⁷ If this power had been properly used it would have placed the Navarrese Cortes in an almost impregnable position. Unfortunately, a total lack of effective procedure was enough to render nugatory this advantage. Castilian rather than Aragonese models were followed in this respect; and for a long time the vote of any two estates was enough to pass a measure without the consent of the third.¹⁰⁸ It is, however, worthy of note that Navarre managed to preserve its native institutions, though with some modifications, longer than any of the other kingdoms, the last session of the Navarrese Cortes being celebrated in 1828, more than a hundred years after the slovenly demise of the national assembly of Castile, and the forcible abolition of those of Aragon, Catalonia, and Valencia.¹⁰⁹

The writer is painfully conscious that he has merely scratched the surface of a topic well worthy of several large volumes. As his excuse he must plead the present inaccessibility of important material and the limitations of space imposed by the stern decree of the editor of this REVIEW. But he has felt that it was worth while—even if it were only to indicate some of the authorities from which fuller information may be obtained—to draw the attention of historical students in this country to a field comparatively unexplored, and of the richest possibilities, and one some knowledge of which is absolutely indispensable to a thorough understanding of the work of Spain in the New World. Students of medieval institutions will

¹⁰⁵ On this topic cf. Ant. Chavier, *Fueros de Navarra* (Pamplona, 1686); Ilarregui and Lapuerta, *Fuero General de Navarra* (Pamplona, 1869); Joseph de Moret, *Annales and Investigaciones de Navarra* (7 vols., Pamplona, 1766); M. and M., IV. 399-423; Danvila, *Poder Civil*, I. 217-219; Altamira, I. 481; G. B. de Lagrèze, *La Navarre Française*, vol. II., ch. VII.

¹⁰⁶ *Fuero General de Navarra*, lib. III., tit. xxii., cap. 1.; M. and M., IV. 413-416.

¹⁰⁷ On the reasons for this cf. M. and M., IV. 416-419.

¹⁰⁸ *Ibid.*, pp. 419-423; Danvila, *Poder Civil*, I. 219-220.

¹⁰⁹ Antequera, p. 635.

find food for thought in carrying the comparison beyond the limits of the Iberian peninsula and noting the similarities and differences between the various Cortes and the English parliaments of the same period. Their investigations will probably lead them to the conclusion that, speaking broadly, the claim of the people to a share in the government was considerably more fully recognized, theoretically at least, in Spain than in England, at that stage of their development.

ROGER BIGELOW MERRIMAN.